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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/049,927	03/30/1998	PASCAL ARNAUD	2350-60	6226

22850 7590 05/29/2003

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER

HUANG, EVELYN MEI

ART UNIT	PAPER NUMBER
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1625

DATE MAILED: 05/29/2003

32

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Applicati n N .

09/049,927

Applicant(s)

ARNAUD ET AL.

Examiner

Evelyn Huang

Art Unit

1625

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

THE REPLY FILED FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 14 May 2003. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☒ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attachment.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

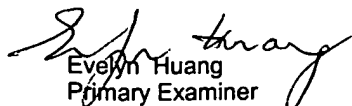
Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 38, 40, 44-63, 68-71, 84-153.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____


Evelyn Huang
Primary Examiner
Art Unit: 1625

Art Unit: 1625

Attachment to Advisory Action

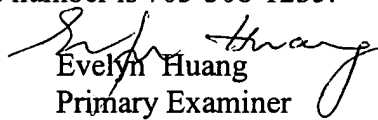
1. The rejection for Claims 38, 40, 44-63, 68-75, 84-153 under 35 U.S.C. 103(a) as being unpatentable over JP S62-238212, or JP H1-283209 or JP H4-57894 or JP H7-48828 in view of JP S64-79106, JP H5-178865, page 359 of 'Cosmetic Raw Materials Standard', page 1081 of 'International Cosmetic Ingredient Dictionary and Handbook', EP 133 964, the 'Technical Data. Polywax Polyethylene', Toyo Petrolite Co. Ltd, 'Shin Etsu Silicone Oil', Shin Etsu Chemical Industry Co (all references cited in PTO-1449) is maintained for reasons of record.

The Declaration under 37 CFR 1.132 filed on 5-14-2003 has been considered but is deemed insufficient to overcome the rejection for the following reasons. Some of the Exhibits, such as D, part of F, H, are not in English, and the examiner cannot impartially ascertain the validity of these data. Secondly, the result for Polywax 1000 is inconsistent. In Table A, solubility is shown for the combination of Polywax 1000 (MW=1000) and Dow Corning 556, whereas in Exhibits F and H, incompatibility is described for the same combination. While unexpected results may be established for polyethylene with MW below 1000, the same have not been shown for polyethylene with MW of 1000. The scope of the showing thus does not commensurate with that of the claims.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Evelyn Huang whose telephone number is 703-305-7247. The examiner can normally be reached on Tuesday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alan Rotman can be reached on 703-308-4698. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-4556 for regular communications and 703-308-4556 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1235.


Evelyn Huang
Primary Examiner
Art Unit 1625

May 28, 2003